

CONSULTANT AGREEMENT

INTRODUCTION

This Consultant Agreement (hereinafter referred to as "Agreement") is entered into by and between The Regents of The University of California, a California corporation, (hereinafter referred to as "University") and _____ (hereinafter referred to as "Consultant"), whose mailing address is _____.

The University has entered into Prime Contract No. W-7405-ENG-48 with the United States Government (hereinafter referred to as "Government") represented by the Department of Energy (hereinafter referred to as "DOE") for the management and operation of the Lawrence Livermore National Laboratory and the performance of certain research and development work, and this Agreement is entered into as a subcontract under the Prime Contract.

The University desires to utilize the expert advice and consultation assistance of Consultant in the field in which Consultant has professional qualifications, as specified herein (hereinafter referred to as "Services").

The Consultant is willing and able to perform such Services in furtherance of the Prime Contract under the terms and conditions of this Agreement.

CLAUSE 1 – PERIOD OF PERFORMANCE AND TERMINATION

- A. The period of performance under this Agreement shall be from the Consultant's **signature acceptance through** _____, and may be renewed upon the mutual agreement of the parties hereto.
- B. Either the University or the Consultant may terminate this Agreement at any time by giving the other party written notice of such action. Such written notice shall specify the date such termination is effective. The liability of the University for termination of this Agreement is limited to those costs or charges payable in accordance with the payment provisions of this Agreement for the Services performed or furnished prior to the effective date of termination.

CLAUSE 1 - NOTICE TO PROCEED, PERIOD OF PERFORMANCE AND TERMINATION

- A. Notice to Proceed

The Consultant may not commence any work performed on a University or Government premise (herein referred to as work on site) until the University Procurement Representative issues a written Notice to Proceed authorizing work on site. The Consultant may proceed with all other work authorized or required by the Agreement in preparation for performing the work on site. The University Procurement Representative will not issue the Notice to Proceed until the Consultant has submitted, and the University has accepted, the following documents. These documents, except for the insurance certificates, shall become a part of this Subcontract upon their review and acceptance by the University.

1. Insurance Certificates (See the attachment entitled "*Work on University or Government Premises*" for information about insurance.)

2. Task Identification Process (TIP) List (See the attachment entitled "*Task Identification Process (TIP) List*")
 3. Job Specific Safety Submittal (See the attachment entitled "*Environment, Safety and Health Provisions*" for information.)
 4. Site Specific Safety Plan (See the attachment entitled "*Environment, Safety, and Health Provisions*" for information about the site specific safety plan.)
- B. The period of performance under this Agreement shall be from the Consultant's **signature acceptance through** _____, and may be renewed upon the mutual agreement of the parties hereto.
- C. Either the University or the Consultant may terminate this Agreement at any time by giving the other party written notice of such action. Such written notice shall specify the date such termination is effective. The liability of the University for termination of this Agreement is limited to those costs or charges payable in accordance with the payment provisions of this Agreement for the Services performed or furnished prior to the effective date of termination.
- D. The Consultant shall comply with all ES&H requirements, training, and associated safety documents referenced, attached, or incorporated to this Agreement, including any incorporated safety related documents submitted by the Consultant and reviewed and accepted by the University.

CLAUSE 2 - DESCRIPTION OF THE CONSULTING SERVICES

- A. The Services to be performed and the related project(s) are described below:

Description of the Project(s)

Description of the Services

- B. This Agreement authorizes performance of the Services for a total of _____ days; which shall not be exceeded without the prior written approval of the University Consultant Office Administrator.
- C. The Services shall commence only when the Services have been requested by the University Technical Representative as specified below. This Agreement does not guarantee any usage of the Services.
- D. The Services shall be performed at _____. Any Services to be performed at sites other than those listed above must have the prior approval of the Consultant Office Administrator.

Consultant shall not make an appearance on behalf of the University at a Congressional Office or a federal agency without a University employee present.

CLAUSE 3 - COMPENSATION AND PAYMENT

- A. The University will pay the Consultant the fixed daily fee of \$_____ for each full day of service. Payment will be made in hourly increments, up to a maximum of 8 hours per work day. Travel time will not be compensable.
- B. The University will reimburse the Consultant for costs and expenses of performance which have been approved in writing by the University, including those for travel as provided in the clause entitled TRAVEL.
- C. The Consultant shall submit a timely Claim for Consulting Services, Form LL-240, accompanied by such other reasonable proof (including reports) as the University may require setting forth actual time spent in the performance of service under this Agreement. The Claim forms will be supplied by the University.
- D. The University's Claim for Consulting Services and Consultant Travel Expense Worksheet forms shall be used for claiming the consulting fee, miscellaneous, and travel expenses. In order to expedite processing of a claim, the Consultant shall include sufficient detail on the form to clearly identify the task or project and, if necessary, attach supporting documentation.
- E. All claim forms, with supporting documentation, shall be submitted to the Consultant Office Administration Section at the following address:

University of California
Lawrence Livermore National Laboratory
Attn.: Consultant Office Admin. Section, L-650
P.O. Box 5012
Livermore, CA 94551
- F. During the term of this Agreement, Consultant shall notify the University immediately of acceptance of, or intent to accept, any form of compensation from any other activity of the University. Consultant agrees that upon acceptance of, or notification to the University of the intent to accept such compensation, the University may amend this Agreement, including those terms governing amounts payable to Consultant hereunder, to an extent consistent with the University's then current and applicable policies and practices.
- G. Consultant shall immediately notify the University of any actual or proposed employment or other compensatory arrangement with any other activity of the University, during the term of this Agreement, and shall provide the University such details thereof as the University may require.

CLAUSE 4 - EXTENT AND CHARACTER OF SERVICES

- A. The relationship of the Consultant to the University is that of an independent contractor and nothing contained herein shall be construed as creating any other relationship. The Consultant, as an independent contractor, agrees to assume all risk associated with its activities under this Agreement; to indemnify and hold harmless the University, its employees, officers, and agents

from any liability, cost or expense arising out of or resulting from such activities; and to obtain all the insurance necessary for Consultant's protection in connection with its performance of this Agreement.

- B. The Consultant shall adopt, subject to University approval, such arrangements as Consultant may desire with regard to the details of the Services performed hereunder, the hours during which the Services are to be provided, and the place or places where the Services are to be furnished, provided further that the Services shall be performed in a manner calculated to attain the most satisfactory results for the University. The Consultant, as an independent contractor, shall personally advise on such matters and at such point or points and for such periods as requested by the University and as agreed by the parties hereto. This Agreement does not guarantee any usage of the Services, and approved usage shall not exceed the maximum days authorized by the University.
- C. The Consultant shall not subcontract, assign, transfer, or otherwise employ anyone to do any of the Services called for under this Agreement without prior written approval of the University.
- D. All materials and equipment furnished by the University hereunder are to be and shall remain the sole property of the U.S. Government and shall be returned to the University within 90 days after the expiration or earlier termination of this Agreement.
- E. The safety training requirements listed below are specific to the facility in which, or the area where, the work will be done. All Consultants working on-site shall satisfactorily complete the training before commencing work on site. The Consultant shall coordinate the scheduling and location for this training with the University Technical Representative.

CLAUSE 5 - TRAVEL

- A. When travel is required and has been authorized by the University, travel expenses will be reimbursed from Consultant's address, as indicated above, or from any place at which Consultant may be located when called upon to perform the Services, and for Consultant's return to any point providing reimbursement will not exceed the travel cost of returning to the place from which travel was authorized or to Consultant's business address.
- B. Travel expenses will be paid, in accordance with the University Consultant Travel Policy and applicable travel regulations for Contract W-7405-ENG-48, upon the submission by the Consultant of a properly certified Travel Expense Worksheet and such other reasonable documentation as the University may require. The University will be under no obligation to reimburse the Consultant for any travel expenses which exceed the limitations stipulated in the University Consultant Travel Policy.

CLAUSE 6 - COORDINATION AND ADMINISTRATION

- A. The **University Consultant Office Administrator** for this Agreement is _____ (925) 42_-_____. All matters relating to the non-technical interpretation, administration, and performance of this Agreement shall be referred to the University Consultant Office Administrator. The Consultant shall direct all notices and requests for approval to the University Consultant Office Administrator.

- B. The **University Technical Representative** under this Agreement is _____ (925) 42_-, who will represent the University in matters relating to the technical performance of the Services. The University Technical Representative will interpret the technical requirements of the Services and determine the emphasis and direction of the Consultant in the conduct of the Services.

CLAUSE 7 - CONDUCT OF CONSULTANT

- A. **Gratuity:** The Consultant shall not accept any gratuity or special favor from individuals or organizations with whom the University is doing business, or proposing to do business, in accomplishing the Services under this Agreement, under circumstances which might reasonably be interpreted as an attempt to influence the Consultant in the conduct of its duties.
- B. **Use of Privileged Information:** The Consultant shall not use for personal gain or make other improper use of privileged information which is acquired in connection with the Services under this Agreement. In this connection, the term "privileged information" includes, but is not limited to, unpublished information relating to technological and scientific developments; medical, personnel, or security records of individuals; anticipated materials requirements or pricing actions; possible new sites for program operations; and knowledge of selection of contractors or subcontractors in advance of official announcement.

The Consultant further agrees to execute a separate Mutual Nondisclosure Agreement, upon request, which shall protect and govern the release of any proprietary, confidential, or protected information received by the Consultant during the course of the Services.

- C. **Equal Employment Opportunity:** Unless this Agreement is exempt, Consultant shall comply with the rules and regulations and relevant orders of the Secretary of Labor regarding equal employment opportunity issued under Section 204 of Executive Order 11246 of September 24, 1965, as amended by Executive Order No. 11375 of October 13, 1967. The contractual provisions prescribed by Section 202 of Executive Order 11246 are incorporated herein by reference.

CLAUSE 8 - ASSIGNMENT

- A. This Agreement may be assigned by the University to the U.S. Government or a successor-in-interest.
- B. The Consultant shall have no right, power or authority to sell, mortgage, transfer or assign this Agreement, any portion hereof, any interest herein or any claim hereunder, nor allow or permit any other party or parties to have any interest in or use any part of the rights or obligations granted hereunder for any purpose whatsoever without the prior written consent of the University.

CLAUSE 9 - RIGHT TO INVENTIONS; CLASS WAIVER

- A. The University will have the right of election to any and all inventions which are conceived and/or first reduced to practice under this Agreement, in accordance with Class Waiver No. W(C)-90-014, a copy of which is available from the University Consultant Office Administrator. All subject

inventions will be treated as if they arose under the Prime Contract (No. W-7405-ENG-48), and the University will have the administrative responsibility for reporting such inventions to the DOE.

- B. The Consultant further agrees to execute a separate Guest Patent, Copyright And Nondisclosure Agreement prior to performance of the Services, the form and substance of which shall be as stipulated by the University. The conditions of the Guest Patent, Copyright And Nondisclosure Agreement are hereby incorporated into and made a part of this Agreement.

CLAUSE 10 - INCORPORATED DOCUMENTS

The following documents are hereby incorporated into this Agreement and are attached hereto. In these documents, the term Subcontract shall mean Agreement and the term Subcontractor shall mean Consultant:

Documents:

SECURITY AND SITE ACCESS PROVISIONS (08/01/00)
SUBCONTRACT HAZARDS LIST, Dated _____
WORK ON UNIVERSITY OR GOVERNMENT PREMISES (WUGP WAL 1 - CONS; 06/30/00)
WORK ON UNIVERSITY OR GOVERNMENT PREMISES (WUGP WAL 2 - CONS; 06/30/00)
WORK ON UNIVERSITY OR GOVERNMENT PREMISES (WUGP WAL 3 - CONS; 06/30/00)
WORK ON UNIVERSITY OR GOVERNMENT PREMISES (WUGP WAL 4 - CONS; 06/30/00)
ENVIRONMENT, SAFETY, AND HEALTH PROVISIONS (ES&H WAL 3; 05/15/00)
ENVIRONMENT, SAFETY, AND HEALTH PROVISIONS (ES&H WAL 4; 05/15/00)
LLNL COMPUTER USE POLICY & SECURITY RULES (5/21/97) **[USE IF OPTIONAL
CLAUSE 13 IS USED.]**

Forms:

TASK IDENTIFICATION PROCESS (TIP) LIST

CLAUSE 11 - CLAUSES INCORPORATED BY REFERENCE

The FAR and DEAR clauses listed below, which are located in Chapters 1 and 9, respectively, of Title 48 of the U.S. Code of Federal Regulations, are incorporated by this reference as a part of these GENERAL PROVISIONS with the same force and effect as if they were given in full text, as prescribed below. The full text of the clauses may be accessed electronically at <http://www.arnet.gov/far/> (FAR) and <http://www.pr.doe.gov/dear.html> (DEAR).

As used in the clauses, the term "contract" shall mean the Agreement; the term "Contractor" shall mean the Consultant; the term "subcontractor" shall mean the Subcontractor's subcontractor; and the terms "Government" and "Contracting Officer" shall mean the University, except in FAR clauses 52.227-1 and Alternate I, 52.227-2, 52.227-16, and 52.227-17, in which clauses "Government" shall mean the U. S. Government and "Contracting Officer" shall mean the DOE Contracting Officer for Prime Contract W-7405-ENG-48 with the University. As used in DEAR clause 970.5204-9, the term "DOE" shall mean DOE and the University.

The modifications of these clause terms are intended to appropriately identify the parties and establish their contractual and administrative reporting relationship, and shall not apply to the extent they would affect the U.S. Government's rights. The Consultant shall include the listed clauses in its subcontracts at any tier, to the extent applicable.

FAR 52.203-6	RESTRICTIONS ON SUBCONTRACTOR SALES TO THE GOVERNMENT (JUL 1995), if the Agreement exceeds \$100,000
FAR 52.203-7	ANTI-KICKBACK PROCEDURES (JUL 1995), if the Agreement exceeds \$100,000, excluding Paragraph (c)(1)
FAR 52.203-10	PRICE OR FEE ADJUSTMENT FOR ILLEGAL OR IMPROPER ACTIVITY (JAN 1997)
FAR 52.225-13	RESTRICTIONS ON CERTAIN FOREIGN PURCHASES (FEB 2000)
FAR 52.227-1	AUTHORIZATION AND CONSENT (JUL 1995), with Alternate I.
FAR 52.227-2	NOTICE AND ASSISTANCE REGARDING PATENT AND COPYRIGHT INFRINGEMENT (AUG 1996)
FAR 52.227-16	ADDITIONAL DATA REQUIREMENTS (JUN 1987)
FAR 52.227-17	RIGHTS IN DATA - SPECIAL WORKS (JUN 1987)
DEAR 952.204-2	SECURITY (SEP 1997)
DEAR 952.204-70	CLASSIFICATION/DECLASSIFICATION (SEP 1997)
DEAR 970.5204-9	ACCOUNTS, RECORDS, AND INSPECTION (JUN 1996), excluding paragraph (h)
Cover Letter	Letter transmitting this Agreement

CLAUSE 12 - CONFLICT OF INTEREST

- A. Consultant recognizes that the University is a prime contractor of the U.S. Government and that University desires to have the Consultant refrain from activities on behalf of the University and the Government which could be interpreted as creating a conflict of interest for the Consultant.
- B. The Consultant warrants and represents that to the best of its knowledge it has no direct or indirect private interest (including corporate stockholdings or other business agreements and obligations) which is or may appear to be incompatible with the Consultant's service under this Agreement.
- C. The Consultant agrees to avoid any activities which may influence the decisions of the University (including participation in proposal, design, or negotiation phases of University procurements) or which directly or indirectly affect the interest of the University or Government where the Consultant has a personal interest in the matter which may be incompatible with the interest of the University or Government, and to notify promptly the University regarding any change in Consultant's private interests or the Services under this Agreement which may result or appear to result in a conflict of interest.

CLAUSE 13 - ACCESS TO LLNL COMPUTER RESOURCES

- A. Consultants given access to LLNL computer resources (e.g., computers and networks) by Subcontractor personnel shall be in accordance with, and is subject to, the LLNL computer security policies and procedures, including, but not limited, to the attached LLNL COMPUTER USE POLICY & SECURITY RULES. These policies and procedures are applicable, whether such access is at the LLNL at the Subcontractor's facility, or elsewhere. If the Subcontractor does not comply with the provisions of this article, the University may withdraw Subcontractor's access to LLNL computer resources. Misuse of LLNL computer resources may be a violation of law and could result in appropriate action, including termination for default and/or criminal prosecution.
- B. Access to LLNL computing resources by Subcontractor personnel is only permitted as required to perform the work authorized under this Subcontract. Classified material or information shall only

be accessed as authorized, and shall be protected in accordance with the security provisions of this Subcontract. All other information or data furnished by the University, obtained from a LLNL computer, or developed on a LLNL computer resource by Subcontractor personnel must be protected by the Subcontractor to prevent disclosure to any person other than those authorized by the University. Files which are not assigned to Subcontractor personnel may not be accessed without specific permission from the University. The University reserves the right to monitor the use of LLNL computer resources through network operating software, by reviewing the contents of all files on LLNL computer resources and any of the Subcontractor's computers used to access LLNL computer resources, and other appropriate means.

- C Computer passwords issued to Subcontractor personnel for access to the LLNL computer resources must not be shared and must be protected by Subcontractor personnel to prevent disclosure to any other persons. If a computer password is disclosed, or disclosure is suspected, the Subcontractor must immediately notify the University Technical Representative and arrange for replacement of the password.
- D. The use at the LLNL of any computing or video conferencing capability utilizing non-LLNL equipment with electronic data transfer capabilities (e.g., personal computers including portables, laptops, notebooks, personal digital assistants, handheld) must be coordinated with the appropriate Information Systems Security Officer (ISSO), through the University Technical Representative, and may not be connected to LLNL equipment without the express written approval of the University Technical Representative and the LLNL Computer Security Operations (CSO) organization.

**THE REGENTS OF
THE UNIVERSITY OF CALIFORNIA**

BY: _____	BY: _____
SSN: _____	TITLE: _____ LLNL Procurement & Materiel
DATE: _____	DATE: _____